

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

RICHARD D. BIRDSALL,

Plaintiff,

v.

LETITIA JAMES,

Defendant.

Case No. 3:24-cv-00046-JMK

ORDER OF DISMISSAL

On February 29, 2024, self-represented litigant Richard D. Birdsall (“Plaintiff”) filed a “Request for Immediate Stay of New York Action 452564/2022,” a civil cover sheet, and paid the filing fee.¹ Then, on March 4, 2024, Plaintiff filed a Notice of Voluntary Dismissal and a Motion for Refund of the Filing Fee.²

A plaintiff may voluntarily dismiss an action without leave of court at any time before the defendant answers or files a dispositive motion.³ However, voluntary dismissal does not entitle a litigant to a refund of the filing fee.⁴ A filing fee is

¹ Dockets 1–3.

² Dockets 5–6.

³ Fed. R. Civ. P. 41(a)(1)(A)(i).

⁴ See *Green v. Bank of America*, Case No. 2012 WL 5032414, at *1 (E.D. Cal. 2012) (denying refund of filing fee after pro se plaintiff voluntarily dismissed complaint under Rule 41 (a)); *Grindling v. Martone*, 2012 WL 4502954, at *1–2 (D. Haw. 2012) (refusing to refund filing fee where pro se prisoner voluntarily dismissed case); *Killian v. Panetta*, 2013 WL 41138399, at *3 (S.D. Cal. 2013) (refusing to refund appellate filing fee to pro se plaintiff where Ninth Circuit dismissed appeal before briefing filed).

“assessed for the privilege of initiating the matter, without regard to the subsequent disposition.”⁵ Plaintiff filed this action, which triggered the obligation to pay a filing fee.⁶

IT IS THEREFORE ORDERED:

1. This action is **DISMISSED without prejudice.**
2. Plaintiff’s motion for a refund of his filing fee at **Docket 6 is DENIED.**
3. All pending motions are **DENIED as moot.**

DATED this 6th day of March, 2024, at Anchorage, Alaska.

/s/ Joshua M. Kindred
JOSHUA M. KINDRED
UNITED STATES DISTRICT JUDGE

⁵ *Kidwell v. Cisnero*, 2023 WL 3095291, at *1 (E.D. Cal. 2023) (citing *Williams v. Roberts*, 116 F.3d 1126, 1127 (5th Cir. 1997), as revised (July 23, 1997)).

⁶ See 28 U.S.C. § 1914(a) (requiring all parties instituting any civil action, suit or proceeding in a district court of the United States, except an application for writ of habeas corpus, to pay a filing fee).